

Meeting of 2005-3-22 Regular Meeting

MINUTES

LAWTON CITY COUNCIL REGULAR MEETING
MARCH 22, 2005 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John P. Purcell, Jr. Also Present:
Presiding Larry Mitchell, City Manager
 John Vincent, City Attorney
 Traci Hushbeck, City Clerk

Mayor Purcell called the meeting to order at 6:00 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by District Elder Joe Williams, True Love Apostolic Faith Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT: Bill Shoemate, Ward One
 Rex Givens, Ward Two
 Amy Ewing-Holmstrom, Ward Four
 Robert Shanklin, Ward Five
Jeffrey Patton, Ward Six (Arrived at 6:30 p.m.)
 Stanley Haywood, Ward Seven
 Randy Warren, Ward Eight

ABSENT: Glenn Devine, Ward Three

PRESENTATION OF EMPLOYEE OF THE MONTH TO PAM CARMON, SENIOR CLERICAL ASSISTANT,
DRAINAGE MAINTENANCE DIVISION OF PUBLIC WORKS.

Jerry Ihler, Public Works Director, introduced Pam Carmon as Employee of the Month. Along with her current position, Ms. Carmon recently performed the duties of a vacant position in drainage maintenance. She trained the new scheduler, who in turn nominated her for employee of the month. Mr. Ihler stated that Pam was a dedicated employee who is always willing to share her knowledge. Her working skills are a great asset to the Public Works Department, the City of Lawton and the citizens of Lawton. Mayor Purcell presented a plaque, certificate of honor, two days of nonchargable leave, script money from Chamber merchants and a Mayor s Do What s Right coin. Ms. Carmon thanked Kelvin Clark for his nomination. She thanked David Tracey, Streets Superintendent and Carl Dentler, Deputy Director of Public Works.

PRESENTATION OF 25 YEAR SERVICE AWARDS.

Mayor Purcell presented Service Awards to 13 City of Lawton employees.

Mayor Purcell presented a plaque to Chief Harold Thorne from the Lawton-Ft. Sill Co-op Program in appreciation for the support from the Lawton Police Department for the past 25 years.

Mayor Purcell presented a plaque to City Manager Larry Mitchell from the Lawton-Ft. Sill Co-op Program in appreciation for the support from the City of Lawton for the past 25 years.

AUDIENCE PARTICIPATION:

Arthur Shipley, 4829 NW Floyd Avenue Concerned about the lack of enforcement regarding ordinance relating to small mouth bass. Current code states any small mouth bass under 23 should be released. He suggested changing wording to any small mouth bass less than 18 be released immediately.

Mayor Purcell stated the request will need to go to the Lakes and Lands Commission for a recommendation and requested staff to proceed with that request.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL MEETINGS OF MARCH 8, 2005.

MOVED by Warren, SECOND by Shanklin, to approve the Minutes of March 8, 2005. AYE: Ewing-Holmstrom, Shanklin, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

CONSENT AGENDA:

Separate consideration was requested for Items 2 and 7.

MOVED by Shanklin, SECOND by Warren, to approve the Consent Agenda items as recommended with the exception of items 2 and 7. AYE: Shanklin, Haywood, Warren, Shoemate, Givens, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval and consider passage of any resolutions authorizing the City Attorney to file a friendly suit for the claims which are over \$400.00: A.B. and Helena White in the amount of \$1,089.69 and Iris Lindsay in the amount of \$60.00. Exhibits: Legal Opinions/Recommendations; **Resolution No. 05-44**. Action: Approval of claims and resolution.

2. Consider the following damage claims recommended for denial: Sylvia Henry in the amount of \$906.50. Exhibits: Legal Opinions/Recommendations.

Councilman Haywood requested the City Attorney explain the reason for denial to the City Council and Ms. Henry. Vincent stated there was an altercation at the Red Planet, 1134 NW Cache Road. The Police attempted to apprehend a person in the parking lot. A fight ensued and they ended up grappling on Ms. Henry's car causing damage in the amount of \$906.50. Vincent explained that under state statute, they are prohibited from paying a claim when enforcing the law. That is the basis for denial.

Sylvia Henry, 708 Ranch Oak Boulevard, stated the altercation did not happen in front of her vehicle, but several feet away. She did not understand why the Police could not get the individual to the ground without putting him on her vehicle. She did not understand how she can be liable for the damage.

Vincent stated that Ms. Henry may file a lawsuit against the individual arrested by the Police.

Shanklin questioned if the property owner could be held liable.

Vincent stated she may have recourse if the Red Planet owned the parking lot.

MOVED by Haywood, SECOND by Warren, to approve the claim of Sylvia Henry in the amount of \$889.29 and authorize all necessary documents. AYE: Haywood, Warren, Shoemate, Givens, Shanklin, NAY: Ewing-Holmstrom. MOTION CARRIED. Note: this action includes adoption of **Resolution No. 05-45** necessary for payment of the claim.

3. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in filing and making payment of the judgment in the Workers Compensation case of Henry Brad Hardzog in the Workers Compensation Court, Case No. 2004-14810H. Exhibits: **Resolution No. 05-46**.

4. Consider accepting documents which are needed for the Flower Mound Project #STP-116B (046) [Gore Blvd to Rogers Lane], and authorize the Mayor and City Clerk to execute the proper documents and authorize payments to property owner for all of the items listed below. Exhibits: Documents are on file in the City Clerks Office.

5. Consider accepting a Warranty Deed for Lot 3-R, Block 1, Doe Doe Park Development, located in Section Thirty-Six (36), Township Two (2) North, Range Twelve (12) West, and authorize the Mayor and City Clerk to sign the Warranty Deed and a thank you letter to the Green Family Investments, L.P. for their donation of the lot. Exhibits: Warranty Deed and thank you letter are on file in the City Clerk's office, Request letter from Clayton Green, Jr., Location Map.

6. Consider approving an Outside Water Sales Contract with Freddie Leon Cannon, and authorize the Mayor and City Clerk to execute the Contract. Exhibits: Contract is on file in the City Clerk's Office.

7. Consider accepting documents which are needed for the Flower Mound Project #STP116B (046) [Gore Blvd. to Rogers Lane], and authorize the Mayor and City Clerk to execute the proper documents, once received, and authorize payments to property owners, contingent upon the receipt of the signed documents, for the amounts listed under either Option A or Option B. Exhibits: Documents are on file in the City Clerk's Office.

Vincent stated that since this item was placed on the agenda, his office has completed negotiations with Wicker Construction and Wicker Trusts and both are agreeable to Option A in the amount of \$9,960.00 for Wicker Construction and \$31,540.00 for Wicker Trusts.

MOVED by Warren, SECOND by Shoemate, to approve Item 7 for the amount listed under Option A. AYE: Haywood, Warren, Shoemate, Givens, Ewing-Holmstrom, Shanklin, NAY: None. MOTION CARRIED.

8. Consider approving the construction plans for a sanitary sewerline located along the east side of the right-of-

way at approximately 405 SE 45th Street. Exhibits: Location Map.

9. Consider approving Change Order No. 3 assessing liquidated damages, accepting the Lake Helen Access Road Construction Project #2002-6 (ODOT Project No. SAP-116D (090), State Job No. 20464(04) as constructed by Bruton Construction Co., Inc. and placing the Maintenance Bond into effect. Exhibits: None.

10. Consider accepting a Quit Claim Deed from the Lawton Urban Renewal Authority for a 24-acre tract located at 701 SW Bishop Road. Exhibits: Quit Claim Deed and Location Map.

11. Consider allowing the Parks and Recreation Department to individually co-sponsor with the Lawton Chamber of Commerce and American Legion a series of softball/baseball tournaments for the year 2005. Exhibits: None.

12. Consider accepting a grant from the Oklahoma Office of Homeland Security for the purpose of continuing to further enhance security measures and install direct emergency energy supplies in case of disaster or acts of terrorism. Exhibits: Copy of Oklahoma Office of Homeland Security Grant.

13. Consider modifying a grant (Phase 17) from the Oklahoma Office of Homeland Security, which has already been approved by City Council. Exhibits: Authorization from State Office of Homeland Security.

14. Consider approving a Resolution of Support for preserving the U.S. Department of Housing and Urban Development s (HUD s) Community Development Block Grant (CDBG) Program and authorize the Mayor and City Clerk to execute the resolution and convey it to Oklahoma s Congressional Delegation. Exhibits: **Resolution No. 05-47.**

15. Consider awarding contract for Jail Beverage Products (CL05-034). Exhibits: Department recommendation and Abstract of Bids. Action: Awarded to Interstate Gourmet Coffee Roaster, Inc.

16. Consider awarding contract for Heavy Equipment Service and Parts (CL05-037). Exhibits: Department recommendation and Abstract of Bids. Action: Awarded to CL Boyd Company Inc.

17. Consider awarding contract for Water Pipe and Fittings (CL05-036). Exhibits: Department recommendation and Abstract of Bids. Action: Awarded to Water Products of Oklahoma.

18. Consider awarding contract for Police Special Services SUV (CL05-035). Exhibits: Department recommendation and Abstract of Bids. Action: Awarded to Billingsley Ford.

19. Consider awarding contract for 15,000 GVW Cab and Chassis and Beds (CL05-035). Exhibits: Department recommendations and Abstract of Bids. Action: Awarded to Joe Cooper Ford, Total Truck & Trailer Equipment and Southwest Trailers & Equipment.

20. Consider awarding contract for Footwear (Safety, Athletic, Walking) (CL05-029). Exhibits: Department recommendation and Abstract of Bids. Action: Awarded to Woodward s of Cyril

21. Consider approving the following contract extensions: Electric Motor Repair (CL04-043) with J and W Electric Motor Company Equipment Maintenance.

22. Consider approval of payroll for the period of February 28 to March 13, 2005. Exhibits: None.

OLD BUSINESS ITEMS:

23. Consider an ordinance amending Section 15-1-101, Article 15-1, Chapter 15, Lawton City Code, 1995, by deleting, adding and/or changing the definitions for junk vehicle and antique or classic vehicles and renumbering; amending Section 15-5-502, Article 15-5, Chapter 15, Lawton City Code, 1995, by changing the name, providing junk vehicles are prohibited within the City of Lawton unless located totally within a building or in connection with a business located within a properly zoned area, declaring the existence of junk vehicles a public nuisance, establishing a time limit for junk vehicles to be located on private or public property and deleting the section establishing a rebuttable presumption; amending Section 15-5-503, Article 15-5, Chapter 15, Lawton City Code, 1995, by clarifying the prohibition of parking or storage of vehicles in residentially zoned districts or lots occupied by a dwelling unit and clarifying the specific exceptions and establishing conditions and limitations on the storage or parking in front and side yard areas; and repealing Section 15-5-505, Article 15-5, Chapter 15, Lawton City Code, 1995, providing for severability and establishing an effective date. Exhibits: Ord. 05-____, February 22, 2005 City Council Commentary.

MOVED by Givens, SECOND by Ewing-Holmstrom, to strike the current proposal and request staff to bring back two separate ordinances, one pertaining to junk vehicles and one pertaining to parking and paving requirements for the May 10, 2005 meeting. AYE: Warren, Shoemate, Givens, Ewing-Holmstrom, Shanklin, Patton, Haywood. NAY: None. MOTION

CARRIED.

BUSINESS ITEMS:

24. Hold a public hearing and consider a resolution amending the 2025 Land Use Plan from Agricultural and Residential/Low Density to Commercial and an ordinance changing the zoning from Temporary A-1 (General Agricultural District) to C-5 (General Commercial District) zoning classification located on the west side of NW 82nd Street from Quanah Parker Trailway to the southwest corner of NW Cache Road and NW 82nd Street. Exhibits: Resolution No. 05-___, Ordinance No. 05-___, Location Map, Site Plan, Applications, CPC Minutes.

Debra Jones, Acting Planning Director, stated this is a request for 60 acres located on the west side of 82nd Street between Quanah Parker Trailway and Cache Road and 20 acres located at the Southwest corner of Cache Road and Northwest 82nd Street. The application was signed by Mr. and Mrs. Schutz and Miss Mary Ann Brandt. The applicant is Newton-Oldacre-McDonald, a development corporation. The zoning of the surrounding area is C-3 to the North, temporary A-1 to the South and West, and C-4, C-5, C-2 and R-1 to the East. The proposed use is a shopping center. On February 24, 2005 the City Planning Commission held a public hearing on the request with four persons speaking in favor of the request, one person spoke against and three voiced concerns regarding traffic, noise and drainage, but did not oppose the request. Staff met with the applicant prior to the CPC meeting to discuss concerns about traffic. The applicant has indicated that they will consider installing an additional traffic signal on Cache Road and constructing Cache Road to a five lane at 82nd Street. The City Planning Commission unanimously recommended approval of this request. Notice of the public hearing was mailed to 56 property owners within 300 feet and also published in the Lawton Constitution. Since the CPC hearing, Ms. Jones has not received any letters or phone calls in favor or opposition of this request.

Patton questioned if the traffic light issue was based on a traffic study or a recommendation from the developers.

Jones stated the issue was based on the traffic impact study.

PUBLIC HEARING OPEN. The Mayor requested that those wishing to speak please limit their comments to three minutes.

Bill Shreve, 1716 Grey Warr Place, stated he attended the Public Hearing of the City Planning Commission. He requested that the City Council please represent the interest of the residents because there will be issues with traffic, noise, pollution, litter and loss of privacy. His biggest concerns are loss of quality of life and attracting buyers to this location. The development will bring hundreds of additional cars to an already busy street. He requested that the City Council work with the developer and encourage them to install landscape or preferably a wall to screen the commercial development.

Milton Fritz, 1210 Warwick, stated his property backs up to 82nd Street. He realizes that his opposition will not stop the City Council from approving this request, but he is concerned about the violence and noise that will be brought to the area. He would request that a wall be put up to help protect from intruders, light and noise.

John Mackey, 312 Ridgeview Way, stated he is attending on behalf of the developer, Newton-Oldacre-McDonald. He introduced several representatives from the project team. He spoke of several projects they have worked on in and out of state. The developers are very aware of the concerns of the neighbors and will continue to meet with the residents surrounding the development. The developers make a practice of meeting with the neighbors on a regular basis to listen to their concerns. He stated the potential tenants of the development are nationally recognized stores and restaurants that are not currently in the Lawton area. The shopping center will be very nice in order to justify the price paid for the property.

Ewing-Holmstrom questioned why the developers did not come to the east side of Lawton.

Patton asked Mr. Mackey if he would give his assurance that the developer will meet with the residents in the area if the rezoning is approved.

Mr. Mackey stated as an example, in one project in Nashville, Mr. Oldacre met twenty times with neighbors. He has been very impressed that the developer wants to be considered a good neighbor.

Patton stated he, along with the other neighbors, will also be impacted. He realized when he bought his property that Lawton would eventually grow West. He has done research on the developer and believes they will put in something that is aesthetically pleasing. He stated it is difficult to be a council person because you want to do what is best for the city, but you also have to keep in mind the people who live in your area. He has to do what he feels is best for the community as a whole. He feels we should look at this development as a positive, and if this complex is what he expects, it will be more of a positive rather than a negative, and a tremendous asset to the

community.

Mike McGuffin, Newton-Oldacre-McDonald, Nashville, Tennessee, stated they would make a commitment tonight to meet as many times as necessary with the concerned neighbors. He encouraged everyone to go to their website and look at the projects. They pay attention that the quality of the tenants and the project is above standard. They feel the neighbors are their customers and it is important to get their support.

Patton said they obviously have experience with neighborhood issues. He questioned if the developers actually retain ownership of the property or do they sell or lease the property.

McGuffin said they retain ownership of the shopping center but many of the anchors like to purchase their own parcels. The outparcels or restaurant pads are usually acquired by the tenant. Overall they maintain ownership of the center.

Ewing-Holmstrom asked for their website.

McGuffin stated it is nomllc.com

Ewing-Holmstrom again questioned if they looked at the east side of Lawton.

McGuffin stated the west side was typically the path of progress and the growth. He stated they look for a piece of property that is large enough and gives them an opportunity to bring in a good mix of great retailers that enjoy being next to each other.

Ewing-Holmstrom questioned what malls they have done in Norman.

McGuffin said they have not worked on a project in Norman, but Tom McCaleb, the engineer on the project has worked on Parkway Plaza in Norman.

Ewing-Holmstrom questioned what stores were in that shopping center.

Tom McCaleb, Spear-McCaleb Engineering, stated the center included a WalMart, Home Depot, Toys R Us, and several restaurants such as Johnny Carrinos, On the Border and Pearls.

Ewing-Holmstrom stated they can assume this center will consist of retail stores, specialty shops and restaurants. She questioned when they would have an idea of who the anchor stores will be and when will that be announced. There are so many rumors about what those stores will be.

McGuffin stated they actually know who those anchors will be, but they cannot reveal that information. They are good quality national tenants that are not represented in this market. They will also look for local shops or restaurants. They will start with press releases as soon as leases are signed.

Mitchell asked about the construction schedule.

McGuffin stated they are looking to start in mid summer. He stated the tenants are very excited about this market. This is an opportunity for the city to capture additional sales tax.

Mayor Purcell stated in a recent trip to St. Louis there were high walls that separated housing areas from commercial and business areas to block noise. In this case, walls would need to be constructed on the east side of 82nd Street, which the developer does not own. He questioned if they would be receptive to the idea of constructing walls on property they do not own.

McGuffin stated they would certainly look into that option.

George Finger, representing Parish Council, Holy Family Catholic Church, stated they are currently the only neighbor that would abut the shopping center. They have no objections to the project and wish them much success. He stated they are concerned about the control of drainage and run off, the site buffer that controls noise, the blowing trash and the 8-inch sewer line. They have spoken with the developer, the designer, and the attorney about these concerns and they will continue to do so. They also believe the traffic deserves to be monitored. There are two planned driveways which open on to 82nd Street, and if not planned carefully, congestion and accidents will result.

Chuck Wade, 727 Heinzwood Circle, attorney representing the Schutz family, stated he would like to reiterate his clients interest in the project. He stated it would be a tremendous economic stimulus to Lawton and encouraged the City Council to approve this item.

Mr. Fritz stated the residents have accepted the fact that the City Council will approve this item and he can understand why. The neighbors do not want to be exposed and would like to have a wall between the neighborhood and the shopping center. They also need to reduce the speed limit on 82nd Street.

PUBLIC HEARING CLOSED.

MOVED by Patton, SECOND by Ewing-Holmstrom, to approve Resolution No. 05-48 and Ordinance no. 05-09 , waive reading of the ordinance, read the title only. AYE: Ewing-Holmstrom, Shanklin, Patton, Haywood Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 05-09

An ordinance changing the zoning from Temporary A-1 (General Agricultural District) to C-5 (General Commercial District) zoning classification located on the west side of NW 82nd Street from Quanah Parker Trailway to the southwest corner of NW Cache Road and NW 82nd Street.

25. Consider adopting Ordinance Number 05-__ repealing and replacing Division 2, Article 2, Chapter 22, Lawton City Code, 1995, establishing a water system capacity fee for all new taps; its application to new and amended water sales contracts: providing standards and criteria for water main extensions and lease-purchase agreements with developers to recover the costs and declaring an emergency. Exhibits: Ordinance No. 05-__, Proposed Fee Schedule, Commentary from October 12, 2004 and extract from minutes, Public Works Development Cost Study dated July 29, 2004 sent under separate cover.

Warren stated there is a desire by several interested parties to table this item. From his understanding there is not a problem with the commercial and industrial areas, but several issues on the residential side. He would like to pass these two ordinances as they are, but make the fee schedule apply only to commercial and industrial. By doing this, the ordinances will be in place and they can sit down and discuss what to do in the area of residential.

MOVED by Warren, SECOND by Shanklin, to approve Ordinance No. 05-10, waive reading of the ordinance, read the title only, and declare and emergency.

Patton questioned if residential was the only issue of concern.

Warren stated there were concerns about the residential tapping prices. The only problem with tabling this item is there are some developers that are waiting for this item to pass so that they may take advantage of the cost sharing portion of this ordinance. If they restrict the fee schedule to apply to non-residential only, it gives them an opportunity to sit down with those interested in the residential fees at a later time. His understanding is that from all the commercial entities this would affect the greatest, they are used to paying these fees.

Ewing-Holmstrom questioned who were the committee members that looked into this issue.

Mayor Purcell stated that the City Council appointed Councilmembers Shanklin, Devine, Haywood, Dan Tucker, Steve Barnes, John Jones, Keegan Ledford and Nick Richards.

Todd Wyatt, 7703 Wyatt Lake Drive, said there are many questions with the commercial developers as well. He hoped the City Council would table the issue to develop more structure with the fees. There are more sizes of meters that commercial developers will need that are not listed. He felt that this could limit potential commercial tenants. They need to look at the overall structure and additional sizes of meters or taps.

Warren said if they pass the schedule the way it is, it will not preclude them from amending in a month or two to add more taps.

Vincent stated the resolution setting the fees can be amended anytime.

Mr. Wyatt suggested that more details need to be given before this issue is passed. If there is a breakdown on how much the taps will cost, they need to breakdown every size. He questioned who determined the fees.

Ewing-Holmstrom also questioned who set the fees.

Mitchell stated those rates were determined by taking three typical square miles in the city of Lawton and looking at the development pattern and the densities within those square miles and then calculate the cost of providing water and sewer to service those square miles.

Ewing-Holmstrom questioned if this fee schedule was reviewed by everyone on the committee.

Mitchell stated yes.

Shanklin said this fee schedule came from comparisons from other cities. There are sewer lines that are full and Lawton will not be able to continue to grow without some kind of fund to share in these costs.

Patton stated he believes the developers are willing to share in the costs, but it is a matter of having a couple of meetings and getting input from those involved.

Mayor Purcell stated this issue has been going on since October and the committee is ready to make a recommendation. They need to do something instead of keep delaying the issue. If there needs to be some modification to residential and even non-residential, they can modify along the way.

Warren asked Mr. Ihler why those specific meter sizes were chosen.

Ihler stated they looked at the size of meters that are currently in the system based on information provided by Revenue Services Division. They would use the same concept on any size meter.

Haywood stated he would prefer for this issue to be clear with everyone involved.

Patton asked if anyone from the Chamber would like to address this issue from an economic development standpoint.

Phil Kennedy, 136 Foxfire, spoke on behalf of the Executive Committee of the Chamber, stating the committee has concerns on how this will impact their business committee in regards to their long range economic development plan and the downtown redevelopment plan. They would like to see this issue tabled because they feel there is the possibility there could be some different funding mechanisms put in to help alleviate the issue. They understand how quality infrastructure affects the community and how important it is to handle the issue in a timely fashion. They would recommend this item be tabled until the April 26th meeting.

SUBSTITUTE MOTION by Patton, SECOND by Ewing-Holmstrom, to table to April 26, 2005. AYE: Patton, Haywood, Shoemate, Givens, Ewing-Holmstrom. NAY: Shanklin, Warren. MOTION CARRIED.

Shanklin stated the same thing is going to happen at the April 26th meeting. The committee put a lot of time into this issue.

John Jones, 4618 Meadowbrook, said the committee has only had two meetings, one last fall in which he was out of town and the second meeting he received notice two weeks after the meeting occurred. He suggested they have another meeting since there is a lot of ground to cover. He feels the commercial people have not been as involved as they need to be.

26. Consider adopting Ordinance Number 05-___ creating Division 22-3-14, Article 3, Chapter 22, Lawton City Code, 1995, establishing a sewer system capacity fee for all new taps; providing standards and criteria for sewer main extensions and lease-purchase agreements with developers to recover the costs and declaring an emergency. Exhibits: Ordinance No. 05-___, Proposed Fee Schedule, Commentary from October 12, 2004 and extract from minutes, Public Works Development Cost Study dated July 29, 2004 sent under separate cover.

MOVED by Warren, SECOND by Haywood, to table to April 26, 2005. AYE: Patton, Haywood, Warren, Shoemate, Givens, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

27. Consider a resolution creating water and sewer capacity fees in Appendix A, Schedule of Fees and Charges, Lawton City Code, 1995. Exhibits: Resolution No. 05-___.

This item was stricken.

28. Consider approving the over run of unit quantities due to line collapses on the 36 trunk main for the 2004 Sewer Liner Project #04-3 SSES with Insituform Technologies. Exhibits: Location Maps of Additional Footages.

MOVED by Shanklin, SECOND by Ewing-Holmstrom, to approve the over run of unit quantities. AYE: Warren, Shoemate, Givens, Ewing-Holmstrom, Shanklin, Haywood. NAY: None. MOTION CARRIED. ABSENT: Patton.

29. Consider approving an ordinance creating Section 6-5-1-507, Lawton City Code, 1995, by requiring a bond for permits to reconstruct, remodel or demolish structures declared dilapidated, providing for severability, codification and declaring an emergency. Exhibits: Ordinance No. 05-___.

Warren stated there is a small segment where this will apply. The property owner obtains a building permit, but a percentage of those people do not accomplish the rehab, then the whole process has to start over. This requires that when they obtain a building permit they are also required to put up a bond. He

felt that this will prevent some of those properties from returning to the Council.

Shanklin questioned what this would cost the property owner.

Vincent stated if they post a cash bond through their bank, it will generally cost no money. If they purchase a commercial surety bond it is usually 10% of the bond amount. Bond amount is the County assessed value of the property.

Givens stated he felt there should be a bond posted for all permits. He questioned why they were concerned with this now.

Vincent said this gives the city a way to recoup the money spent to clear the property when the property owner does not fulfill their obligations.

Warren stated if the owner cannot get a letter of credit for the bond, they most likely don't have the ability to rehab the property. If they don't have the money or trust from a bank to get a bond, then how will they have the money or credit to rehab a house.

MOVED by Shoemate, SECOND by Ewing-Holmstrom, to approve Ordinance 05-10, waive reading of the ordinance, read the title only and declaring an emergency. (see amendment) AYE: Ewing-Holmstrom, Shanklin, Warren, Shoemate, Givens. NAY: Haywood. MOTION CARRIED. ABSENT: Patton.

Amendment: Due to a lack of six affirmative votes, emergency section was not passed.

(Title read by City Attorney) Ordinance 05-10

An ordinance creating Section 6-5-1-507, Lawton City Code, 1995, by requiring a bond for permits to reconstruct, remodel or demolish structures declared dilapidated, providing for severability and codification.

30. Consider adopting an ordinance amending Sections 5-1-101, 5-1-109, 5-1-110, 5-1-112, 5-1-114, 5-1-115, and 5-1-120, Article 5-1, Chapter 5, and amending Section 5-3-301 and 5-3-302, Article 5-3, Chapter 5, Lawton City Code, 1995, by providing for amended definitions, repealing or renumbering of certain sections, providing for confinement of and amendment of fines for animals running at large and for the quarantine of vicious or dangerous dogs, and responsibility for costs incurred, providing for severability, repealer, codification and an effective date. Exhibits: Revised Ordinance Section 5-1-101, 5-1-109, 5-1-110, 5-1-114, 5-1-120 and 5-1-121 of Article 5-1. Article 5-2, section 5-2-204. Article 5-3, section 5-3-301 and 5-3-302 in Chapter 5, Animals, Lawton City Code, 1995. Exhibits: Revised Ordinance.

Jerry Ihler, Public Works Director, stated the changes in the amendments can be broken into four categories. First they were doing some amendments to the definitions so they will more closely match the definitions and interpretations of the State Code. The definition of abandoned has been expanded to include properties that are not currently occupied. This definition will allow them to go into vacant homes or lots. Another change allows the homeowner to quarantine their own animal if they bite a family member. This would also change the current fees for running at large which are not less than \$40 in case of an altered animal and not less than \$60 in the case of an unaltered animal. They are recommending the first offense be \$100, \$150 for the second offense and \$200 for the third and consecutive offenses.

Shanklin questioned if the City is euthanizing around 6,000 animals a year.

Ihler stated the number has varied from 6,000 down to 4,500 per year.

Warren questioned if it would be possible for residents to purchase a city license in the license and permit center.

Ihler stated that would be possible.

MOVED by Warren, SECOND by Ewing-Holmstrom, to adopt Ordinance 05-11, waive the reading of the ordinance, read the title only. AYE: Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 05-11

An ordinance pertaining to animals amending Sections 5-1-101, 5-1-109, 5-1-110, 5-1-112, 5-1-114, 5-1-115, and 5-1-120, Article 5-1, Chapter 5, and amending Section 5-3-301 and 5-3-302, Article 5-3, Chapter 5, Lawton City Code, 1995, by providing for amended definitions, repealing or renumbering of certain sections, providing for confinement of and amendment of fines for animals running at large and for the

quarantine of vicious or dangerous dogs, and responsibility for costs incurred, providing for severability, repealer, codification and an effective date.

31. Consider an adjustment to Ms. Chung Graham s utility account for a water leak on her property located at 7109 NW Cache Road. Exhibits: Letter from Chung Graham, Statement dated 1/6/05 from Baker Plumbing and Mechanical Service, Invoice #70853 dated 11/23/04 from Baker Plumbing, Invoice #70956 dated 11/23/04 from Baker Plumbing.

Mayor Purcell questioned if the City Council had previously passed an ordinance that says no water adjustments to commercial properties and can the City Council violate that ordinance by making an exception.

Endicott stated there had previously been an ordinance before the City Council to eliminate all adjustments. The City Council discussed eliminating commercial adjustments, but chose not to. They limited the adjustments that could be made to two months.

Patton said Mrs. Graham had an undetected water leak on the property while she had tenants occupying the property. She was notified of the problem and had it repaired at her own expense. The tenant received an adjustment. She had another undetected leak during the time she was replacing the line. He said he realizes that there is a caveat that only one adjustment is made per year on a piece of property, but Mrs. Graham did not receive an adjustment on the second break.

MOVED by Patton, SECOND by Givens, to approve the adjustment in the amount of \$475.57. AYE: Patton, Haywood, Warren, Shoemate, Givens. NAY: Ewing-Holmstrom. MOTION CARRIED. ABSENT: Shanklin.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Colonel Herring thanked the community for the support they have shown for the soldiers from the 39th Brigade Combat Team who are demobilizing through Fort Sill.

Givens suggested the City Council host a workshop to discuss the impact fee ordinances and invite those who are interested from the Chamber, commercial and residential developers. The City Council agreed to schedule the workshop on Tuesday, April 19th at 6:00 pm in the City Council Chambers. The final results will be voted on at the April 26th City Council meeting.

Ewing-Holmstrom said she noticed on the utility poles at the intersection of SE 45th and Lee someone has painted no city code on the pole with red paint. Staff will check on this issue. She encouraged all elected officials to participate in the welcome home ceremonies at Fort Sill. The soldiers come from all over the country.

Mayor Purcell said it is really heartwarming to watch the families and the soldiers. He also encouraged everyone to attend.

Patton passed along a call regarding a large pothole at either 73rd or 75th and Cache Road.

Kim Shahan, Parks and Recreation Director passed out a memo regarding fishing regulations by the Oklahoma Department of Wildlife Conservation pertaining to Lake Helen. Larry Kofer, Oklahoma Department of Wildlife Conservation, reported they will have a site visit on March 30th and the city will help host. He stated they are very proud of what has been going on at Lake Helen and complimented the Parks and Recreation and Engineering staff.

Mayor Purcell reported on the Chamber Legislative trip to Washington DC. They were able to visit with every member of the Oklahoma Congressional Delegation and voice their concerns. One issue discussed was the phase II sewer project. There is hope that the funds to complete the project will be included in the authorization bill. Without an authorization bill, we will never get the appropriation. Mayor Purcell received a letter from Jack Wagner resigning from the Code Review Committee and asked if anyone had any recommendation for a replacement. He asked for recommendations by the following Tuesday.

MOVED by Warren SECOND by Patton to take a ten minute break and then convene in executive session to consider items shown on the agenda and as recommended by the legal staff. AYE: Patton, Haywood, Warren, Shoemate, Givens, Ewing-Holmstrom, Shanklin. NAY: MOTION CARRIED.

The Mayor and Council convened in executive session at 8:45 p.m. and reconvened in regular, open session at 9:05 p.m. Roll call reflected all members present.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

32. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the consolidated law suit, in the Comanche County District Court, Comanche County Rural Water District No. 1, et al vs. City of Lawton and Lawton Water Authority, Case No. CJ-2003-928; and if necessary, take appropriate action in open session. Exhibits: None.

MOVED by Patton, SECOND by Warren, to reject settlement offer received from plaintiff on January 8, 2005 and authorize City Attorney to make a counter offer and enter into negotiations concerning the counter offer. AYE: Warren, Givens, Ewing-Holmstrom, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED. ABSTAIN: Shoemate

33. Consider convening in executive session pursuant to Section 307B.4, Title 25, Oklahoma Statutes, to discuss a pending action relating to the rezoning of property located at 7615 NW Cache Road; and if necessary, take appropriate action in open session. Exhibits: None.

MOVED by Patton, SECOND by Warren, authorizing staff to initiate a rezoning of the property at 7615 NW Cache Road at the City's expense. AYE: Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

34. Consider convening in executive session Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, to discuss a pending action related to Lake Gondola located in Medicine Park, Oklahoma; and if necessary, take appropriate action in open session. Exhibits: None.

MOVED by Warren, SECOND by Shanklin, authorizing staff to initiate legal action to correct legal description in judgment setting boundaries of Lake Gondola. AYE: Ewing-Holmstrom, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

35. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the law suit, in the Oklahoma County District Court, City of Lawton vs. Public Employees Relations Board and American Federation of State, County, and Municipal Employees, Case No. CJ-2004-9617; and if necessary, take appropriate action in open session. Exhibits: None.

No action taken on this item.

36. Consider convening in executive session pursuant to Section 307B.3, Title 25, Oklahoma Statutes, to discuss a request to purchase a section of the Quanah Parker Trailway right-of-way, and if necessary, take appropriate action in open session. Exhibits: None.

MOVED by Ewing-Holmstrom, SECOND by Warren, to reject request to sell a portion of the Quanah Parker Trailway right of way for the purpose of establishing a parking lot by an adjacent property owner. AYE: Patton, Haywood, Warren, Shoemate, Givens, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 9:15 p.m. upon motion, second and roll call vote.

JOHN P. PURCELL, JR., MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK